IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 941 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 & 2 YES; 3 to 5 NO

SHAMLAJI AROGYA SEVA TRUST

Versus

STATE OF GUJARAT

Appearance:

MR PRADEEP PATEL for Petitioner
MR ARUN D OZA GOVERNMENT PLEADER for Resp. No. 1
MR ANANT S DAVE for Respondent No. 4

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 17/03/2001

C.A.V. JUDGEMENT

1. By way of this petition under Article 226 of the Constitution, the petitioner - Trust has launched the fourth round of litigation for obtaining affiliation to the first and only women's Homoeopathic College established by it and recognized by the Central Council of Homoeopathy (`CCH' for short). The application for affiliation submitted by the petitioner to the Bhavnagar University was, after a local enquiry and recommendation of its Academic and Executive Councils, forwarded on 18.4.2000 by the Registrar, in accordance with the provisions of Section 35 (4) of the Bhavnagar University Act, 1978 (`the University Act' in short), to the State Government for deciding upon the question of grant of affiliation. As the State Government did not take or convey its decision despite a number of letters and representations, the petitioner approached this Court by way of Special Civil Application No.9904 of 2000, after hearing of which a direction to decide within two weeks from 25.9.2000 was issued. It was also observed in the judgment of the said case that in view of a decision of the Supreme Court in another case, the requirement of approval of the Government appeared to be a mere formality. However, as the Government still failed to take a decision, the petitioner filed an application under the Contempt of Courts Act during the hearing of which the Government undertook to take a decision within a period of two weeks from 15.11.2000. Then, even as the Government had directed the petitioner to deposit a sum of Rs.6,00,000 in the joint names of the Registrar of the University and the President of the petitioner-Trust in connection with the application for affiliation and even as that was complied, the government made an order dated 25.11.2000 refusing to accord affiliation to the petitioner's college. That order was challenged in Special Civil Application No.12119 of 2000 in which, by an interim order, the process of centralised admission was put off till 15.1.2001. The detailed order dated 25.11.2000 denying affiliation to the petitioner's college was, after consideration of extensive arguments and by an elaborate judgment, set aside for being unreasonable, arbitrary and bad in law and the considerations on which it was based were held to be not genuine, relevant or germane to the exercise of power. It was expressly held that the application for affiliation could not have been rejected for the reasons stated in that order. While upholding the applicability of the provisions of Section 35 of the University Act, it was also held that the exercise of power under that Section had to be in conformity with the provisions of

the Homoeopathy Central Council Act, 1973 (`the Central Act' for short) and the Regulations made thereunder. Accordingly, the Government was directed to reconsider the application of the petitioner and decide the same in accordance with law and in light of the observations made in that judgment.

2. After three rounds of litigation culminating into the directions as above, the Government passed the impugned order dated 1.2.2001 again rejecting the application of the petitioner and that is how the same matter between the same parties came up before the Court with substantially the same grievances and for the same reliefs. The main contentions of the petitioner were that the order impugned in this petition was substantially the reproduction, in short, of some of the same grounds on which the earlier order dated 25.11.2000 was based and which were expressly held not to be genuine or germane to the exercise of power. On this basis it was also submitted that the impugned order was practically in contempt of the directions of this Court. The other main contention of the petitioner was that it was subjected to hostile discrimination even as affiliation to three other Homoeopathy Colleges was granted without applying the same criteria immediately before or after the rejection of the petitioner's application.

3. In view of the contentions as above, it is necessary to refer to the legal propositions laid down in the earlier judgment in Special Civil Application No.12119 of 2000 after an elaborate examination of the relevant facts and legal provisions in light of which the respondent was required to reconsider the matter, as also to set out the grounds sought to be made out in the order impugned in this petition. It was held in the aforesaid earlier judgment that:

(a) The grounds and contentions canvassed for the respondents as were founded upon baseless assumption of power to grant approval and recognition under the State Act (i.e. the Gujarat Homoeopathy act, 1963) had to be rejected as misconceived.

(b) The power of the Central Council of Homoeopathy of granting recognition to a Homoeopathy College is implied although such a college and the University to which it may be affiliated and the degree to which the course imparted therein lead

to might not have yet been included in the Second Schedule to be a 'recognised medical qualification'.

(c) The grounds and contentions regarding necessity of obtaining opinion and prior approval of the State Council or a No Objection Certificate from the Health and Family Welfare Department before seeking recognition from the State Council under the State Act are not only not supported by any legal provision but, in fact, they are inconsistent with the scheme and provisions of the Central Act.

(d) The impugned order was based on mere vague allegations, at best creating doubts against the credentials of the petitioner without any relevant and reliable material on record.

(e) The impugned order dwelt upon the deficiencies in the infrastructure as revealed in the local inspection report forwarded by the University along with the application for affiliation. In the nature of things and as indicated by the aforesaid provisions, the application for affiliation had to be decided on the basis of certain assurances and conditions to be imposed as all the necessary infrastructure, facilities, staff etc. may not be in existence at the stage when an application for affiliation is made by a new college.

(f) If keeping this in mind the expert bodies of the autonomous University approve or recommend affiliation of a college, it would require an overwhelming consideration and stronger reasons supported by reliable relevant data for the Government to refuse the application for affiliation.

(g) In the facts of this case, the allegations and grounds of inadequate infrastructure, without support of any material or independent inquiry, are found and held to be irrational and

unreasonable particularly in view of the recognition duly granted by the CCH after its own inquiry.

(h) Even assuming the existence of the powers under the University Act to refuse or grant affiliation on certain conditions, the Government or the University cannot fix or impose the standards and levels of adequacy of infrastructure which are inconsistent with those prescribed by the CCH under the Central Act and the Regulations made thereunder. Consequently where, as in the facts of this case, the State Government denied affiliation for the alleged insufficiency regarding staff, equipment, training and such other facilities even as the same matters were covered by the provisions of the Central Act and the CCH had granted its recognition, consideration of the same matters by the State Government under the State Law was incompetent.

3.1 As against the observations as above and pursuant to the direction to decide the application afresh in light of those observations, the impugned order states that the order impugned in the earlier case was set aside "for technical reasons". Then, according to the impugned order, upon reconsideration and verification of the record and position, observations are made and conclusions are drawn, the substance of which can be translated as under:

(1) That the necessary infrastructural facilities were not available at the stage of application itself and a rented premises for the college cannot provide adequate facilities where land admeasuring 5 acres was required. That the recommendations of the University were conditional;

(2) That most of the members of the petitioner-Trust were family members and the Trust did not appear to be a public charitable trust. That in case of dissolution of such Trust, the education of the students could be adversely affected;

(3) That the same Trust having another college affiliated to another University, its

application for affiliation to Bhavnagar University did not appear to be logical;

(4) That Bhavnagar University did not appear to have obtained recognition from the Central Government under Section 13 (2) of the Central Act; and

(5) That the Health and Family Welfare Department, to which the subject of "Medical Education" is allotted, under the Gujarat Government Rules of Business, has decided not to approve the proposed college.

The application for affiliation is stated to have been rejected by the impugned order after consideration of the case, keeping in view the background of observations and conclusions drawn as above. It has to be noted that the impugned order does not expressly state any fact or ground or reason for denying affiliation, but it states to have reconsidered the case keeping the backdrop of the aforesaid observations and conclusions in view.

4. The Deputy Secretary, Education Department, who has signed the impugned order, has submitted three affidavits and sought to support the impugned decision with the statements as under:

"6. I submit that the proposal of the Bhavnagar University for the affiliation of Shri Mahalaxmi Mahila Homoeopathic Medical College, Vadodara was scrutinised to ensure whether the requirements for affiliation were fulfilled in accordance with the Rules and it was found that (1) no objection certificate of the Health and Family Welfare Department was not obtained prior to making of the application, while, in fact, the Health Department has rejected the proposal. (2) The University was required to obtain a complete report from the petitioner and thereafter only can forward the proposal to the State Government. (3) By letter dated 18.4.2000 of the Bhavnagar University, it is stated that as per the report of the Local Inquiry Committee the owner of the building has given the building on rent, on the condition that the construction will be carried out on the site after the permission is granted. There are shortcomings with respect to the same as set out in the impugned order dated 1.2.2001. By the aforesaid proposal recommendation is made for the commencement of the syllabus/course from

June 2000, hence, the entire infrastructure of the new college should be ready by then. However, in the present case even the construction is not completed. (4) while sending its proposal to the Central Council of Homoeopathy, the Trust has stated that the no objection certificate of the State Government in the prescribed form would be obtained after obtaining the prior sanction of the Central Council."

It is further stated in paragraph 9 of the first affidavit that:

"In the instant case the Government has considered all the relevant facts, proposals of the petitioner-institution, report of the Local Inquiry Committee of the University, order passed by the Health Department and the letter of the Central Council of Homoeopathy dated 18.12.2000, wherein also certain lacunas with respect to the petitioner-institution have been pointed out and thereafter only the impugned order is passed which is just, legal and proper and does not require any interference from this Hon'ble Court under writ jurisdiction.....I further say that the petitioner has to satisfy the authority with regard to the norms and standards prescribed for the affiliation."

4.1 It is also admitted in the second detailed affidavit of the same deponent that:

"It is further clarified that the State Government has granted in principle approval to two Colleges, namely, Shri C.N.Kothari Homoeopathic Medical College and Research Centre, Vyara, District Surat and Shri Swami Vivekanand Homoeopathic Medical College subject to certain terms and conditions".

And in paragraph 6.I it is deposed that:

"With regard to ground I, it is submitted that the Health and Family Welfare Department is the Department concerned, which has been allotted with the subject of Medical Education under the Gujarat Government Rules of Business. It is submitted that the conscious decision of the said Department not to grant recognition to the proposed Homoeopathic College at Vadodara cannot

be ignored by the authority competent to grant affiliation."

In the reply and the rejoinder to the affidavit filed on behalf of the CCH, the same deponent has deposed that:

".....However, while exercising powers of granting affiliation under sub section (4) of Section 35 of the Bhavnagar University Act it is incumbent upon the State Government to ensure that the standards laid down by the Council under the relevant regulation are strictly complied with".

In his additional affidavit-in-sur-rejoinder to the rejoinder filed by the petitioner to point out the discriminatory treatment meted out by the Government, the same deponent has deposed that:

"I further say that the petitioner has attached a statement running into the number of items comparing the position of his college at Baroda with Bhavnagar College to show that the injustice has been meted out to him. With reference to the same the Education Department has no comments to offer except to say that the proposal of both the colleges have been processed on separate files and further action in the light of the decision of the Government has been taken."

5. The Registrar-cum-Secretary of the Central Council of Homoeopathy has filed an affidavit for the CCH (the respondent No.4) supporting the petitioner and stated as under:

"9. That the State Government has not contradicted or offered any comments on the inspection carried out and the decision taken by the Central Council to grant recognition vide its letter dated 11.9.2000. I say that, as mentioned in the earlier part of the reply, the Central Council has inspected the college of the petitioner as required under the provisions of the regulations made by the Central Council concerning provisions regarding requirement of staff, equipment, training and other facilities etc. in the Homoeopathy College of the petitioner and it is found in the inspection carried out by the 3 member committee constituted by the Central Council that the college of the

petitioner is having all the infrastructural facilities, equipments, training facility etc. according to the regulations of the Central Council for I-BHMS Course and therefore, petitioner's college has been duly recognised by the Central Council."

6. As can be seen from the observations made in para 3 from the earlier judgment, the matters of inadequacy of infrastructural facilities and recognition of University itself under the Central Act are squarely covered and concluded. Besides that, as averred in the petition, the Government has granted the application of another Homoeopathy College for affiliation to the same University without insisting upon the same level of infrastructure and facilities. The other circumstances relating to constitution of the petitioner-Trust and affiliation of its another college to another University which are cited in the impugned order have either no factual basis or no legal support. The petition opens with a factual statement on oath that the petitioner is a public trust having Certificate of Registration No.E-2316-Panchmahal, granted on 16.7.1993 by the Assistant Charity Commissioner, Nadiad and a copy of the Registration Certificate of the Trust is annexed at Annexure-A and this statement is not denied or disputed by the respondent. No legal submission is made as to why the same Trust cannot apply for affiliation of its different colleges to different Universities. Thus, there is no substance in the first four circumstances cited against the petitioner. The other and further grounds pressed into service through the affidavits of the signatory of the impugned order are neither cogent nor convincing. The averments in para 6 of the affidavit as quoted in para 3 hereinabove speaks about `Rules' with reference to which the application for affiliation is stated to have been scrutinized. However, which are these Rules and how the requirements thereunder were not fulfilled is not shown. Similarly, at the end of para 9 of the affidavit it is stated that the petitioner had to satisfy the authority with regard to the norms and standards prescribed for the affiliation. Which are these norms and standards is nowhere placed on record. Therefore, the impugned order appears to be an outcome of predetermined mind influenced by the repeatedly relied negative decision already taken by the Health and Family Welfare Department of the Government.

6.1 The learned Government Pleader vehemently canvassed that although the impugned order is expressly made by the Education Department, the subject of Medical

Education was under the Health and Family Welfare Department which was in charge of the Hon'ble the Chief Minister at the relevant time. It was pointed out from the departmental files that the conscious and bona fide policy decision was taken at the highest level in the Health and Family Welfare Department to deny affiliation to the college of the petitioner. It was also argued that as a medical college is required to have a hospital attached to it, the infrastructural facilities of the college as also the hospital to be attached to it have to be closely examined and approved by the Department of Health to ensure a satisfactory standard of education. Besides that, the learned Government Pleader again pointed out lack of basic amenities like a proper building as revealed in the application of the petitioner as forwarded by the University as also the deficiencies pointed out even by the CCH by its letter dated 18.12.2000. Thus, it was further submitted, as deposed in support of the impugned order, that:

> "while exercising power of granting affiliation under sub-section (4) of Section 35 of the Bhavnagar University Act, it is incumbent upon the State Government to ensure that the standards laid down by the Council under the relevant regulations are strictly complied with"....."....and the State Government can certainly consider other conditions apart from the standards and regulations of adequacy of infrastructure, like viability of the institute or capacity of the management to run the college efficiently as well as other relevant factors."

6.2 These submissions have to be analysed to clear the confusion. The Rules of Business of the Government and the inter-departmental interaction were not what the petitioner had to contend with. In fact, the application for affiliation was duly forwarded by the University which was required to be decided in accordance with law and the directions of this Court. It is the State Government which grants or refuses the application for affiliation under the relevant provisions of the University Act. As far as the alleged infrastructural deficiencies were concerned, as seen earlier, there already was a pronouncement of this Court in respect of the competence of the State Government in view of the provisions of the Central Act and the recognition granted by the CCH. And, it is also seen that neither any standard fixed for infrastructure was shown by the State Government, nor were the alleged inadequacies expressly cited as the reason for refusal. The deficiencies

pointed out by the CCH and the requirement of meeting the standards set by the CCH are entirely a matter under the Central Act which nowhere provides for any role of the State Government except under Section 19 where, upon report of an Inspector or a Visitor under that Act, it appeared to the CCH that the staff, equipment, accommodation, training and other facilities etc. provided in a medical institution did not conform to the standards prescribed by the CCH, it might make a representation to that effect to the Central Government and the Central Government might decide to send it to the State Government. Otherwise, as was already held after an elaborate discussion of the scheme and the relevant provisions of law, consideration by the State Government, of the matters covered by the provisions of the Central Act and the Regulations made thereunder, was incompetent and the exercise of power under the University Act had to be in conformity with the provisions of the Central Act and the Regulations made thereunder. In this view of the matter, consideration of the alleged insufficiency of infrastructural facilities as revealed in the original application for affiliation and mixing of the same with those pointed out by the CCH as late as on 18.12.2000, was irrational and contrary to the observations in the earlier judgment which were to be kept in mind while taking a decision in a manner that did not conflict with those observations and directions.

7. Sub-Section (5) of Section 35 of the University Act provides that where the application for affiliation is not granted (refused), the grounds for such refusal have to be recorded. The impugned order in the facts of this case does not expressly purport to record or enumerate the grounds for refusal. As noted earlier, it only relates the circumstances against the backdrop of which the application for affiliation was reconsidered. Such avoidance of recording grounds in clear terms in such a controversial matter could hardly endow the decision with an aura of being bona fide. This infirmity is further affirmed and accentuated by the admitted fact that a negative decision was already taken at the highest level in the Department of Health and the same could not be ignored by the author of the impugned order. Thus, the impugned decision clearly appears to have been controlled and inspired by the decision of another Department, namely, Health and Family Welfare Department, which has enjoyed immunity from recording and expressing any cogent reason as it did not make the impugned final order. Such procedure and practice is not envisaged and does not satisfy, either in letter or spirit, the requirement of recording reasons for refusing the

application for affiliation under the provisions of Section 35 (5) of the University Act. Thus, the impugned order is not only illegal but lacks in requisite transparency, besides being influenced by the considerations which were clearly held to be irrelevant or unreasonable and which could not have been considered in view of the observations made and directions issued in the earlier judgment of this Court. In this context it may be apposite to quote as under the recent observations of the Apex Court even in the context of legislative provision for overruling the judicial decision, in UNION OF INDIA v. K.M.SHANKARAPPA [(2001) (1) SCC 582]:

> "The executive has to obey the judicial orders. Thus, Section 6 (1) is a travesty of the rule of law which is one of the basic structures of the Constitution. The legislature may, in certain cases, overrule or nullify a judicial or executive decision by enacting an appropriate legislation. However, without enacting an appropriate legislation, the executive or the legislature cannot set at naught a judicial order. The executive cannot sit in an appeal or review or revise a judicial order. The Appellate Tribunal consisting of experts decides matters quasi-judicially. A Secretary and/or Minister cannot sit in appeal or revision over those decisions. At the highest, the Government may apply to the Tribunal itself for a review, if circumstances so warrant. But the Government would be bound by the ultimate decision of the Tribunal."

Thus, it would impinge upon the rule of law and would be indeed unfortunate if the Government prefers to resort to obfuscation and clever drafting of its order rather than complying with the express provision of law and clear judicial directions. In the facts of this case, it appears that the exercise of reconsideration and of taking a fresh decision in light of the judicial observations in compliance of the earlier judgment was reduced to an empty formality.

8. The learned counsel for the petitioner vehemently argued that the mandatory directions and clear observations made in the successive judgments in favour of the petitioner have not brought any real relief insofar as the Government has resolutely adopted an adamant attitude disregarding the rights and interest of the petitioner, the interest of the students and the opportunity for growth of higher education in general.

The recognition granted by the CCH to the petitioner for only one academic session (year 2000-2001) is likely to expire without and before affiliation being accorded to the petitioner's college and any student being admitted through the centralised admission system. It was, therefore, urged that this is a fit case in which an appropriate order declaring the petitioner's college as an affiliated college or directing the Government to grant affiliation with an order to the Chairman, Central Admission Committee to allot students was required to be issued. In support of this submission, the judgment of the Supreme Court in COMPTROLLER AND AUDITOR GENERAL OF INDIA v. K.S.JAGANNATHAN [AIR 1987 SC 537] was cited with emphasis on the observations as under:

"19.....The principle enunciated in the above case was approved and followed in The King v. Revising Barrister for the Borough of Hanley (1912) 3 KB 518, 528-9, 531. In Hochtief Gammon's Case (AIR 1975 SC 2226) this Court pointed out at page 6751 that the powers of the Courts in relation to the orders of the government or an officer of the Government who has been conferred any power under any statute, which apparently confers on them absolute discretionary powers, are not confined to cases where such power is exercised or refused to be exercised on irrelevant considerations or on erroneous ground or mala fide, and in such a case a party would be entitled to move the High Court for a writ of mandamus. In Padfield v. Minister of Agriculture, Fisheries and Food 1968 AC 997 the House of Lords held that where Parliament had conferred a discretion on the Minister of Agriculture, Fisheries and Food to appoint a committee of investigation so that it could be used to promote the policy and objects of the Agricultural Marketing Act, 1958, which were to be determined by the construction of the Act which was a matter of law for the court and though there might be reasons which would justify the Minister in refusing to refer a complaint to a committee of investigation, the Minister's discretion was not unlimited and if it appeared that the effect of his refusal to appoint a committee of investigation was to frustrate the policy of the Act, the court was entitled to interfere by an order of mandamus. In Halsbury's Laws of England, Fourth Edition, Volume I, paragraph 89, it is stated that the purpose of an order of mandamus "is to remedy defects of

justice and accordingly it will issue, to the end that justice may be done, in all cases where there is a specific legal right and no specific legal remedy for enforcing that right, and it may issue in cases where, although there is an alternative legal remedy yet that mode of redress is less convenient beneficial and effectual.

20. There is thus no doubt that the High Courts in India exercising their jurisdiction under Article 226 have the power to issue a writ of mandamus or a writ in the nature of mandamus or to pass orders and give necessary directions where the Government or a public authority has failed to exercise or has wrongly exercised the discretion conferred upon it by a statute or a rule or a policy decision of the Government or has exercised such discretion mala fide or on irrelevant considerations or by ignoring the relevant considerations and materials or in such a manner as to frustrate the object of conferring such discretion or the policy for implementing which such discretion has been conferred. In all such cases and in any other fit and proper case a High Court can, in the exercise of its jurisdiction under Article 226, issue a writ of mandamus or a writ in the nature of mandamus or pass orders and give directions to compel the performance in a proper and lawful manner of the discretion conferred upon the Government or a public authority, and in a proper case, in order to prevent injustice resulting to the concerned parties, the Court may itself pass an order or give directions which the Government or the public authority should have passed or given had it properly and lawfully exercised its discretion."

8.1 A Division Bench of this Court has also, in KRISHNA CINEMA v. THE STATE OF GUJARAT [AIR 1971 GUJARAT 103], taken the view that:

"21. It is well established now that where it is a matter of discretion whether a public duty should have been performed or not ordinarily no mandamus will be issued. Then again if the authority exercising the discretion is a high authority and if the discretion is used bona fide, and in consonance with the object and purpose to be achieved, the Court may not issue a

mandamus. But at the same time it is also now well established that where the discretion is exercised taking into account any irrelevant or extraneous matters, a mandamus may issue. Then again if the right vested in the authority is couched in words which may apparently appear to be permissive or within a discretion vested, the provision in a given case may be found to be obligatory then such right or power is coupled with a duty and the exercise of the power would then not remain in the realm of discretion once it is shown that the conditions requiring the exercise of such power have been complied with. In our view the law is also now crystallised that it is not necessary for any provision of law to contain a superadded obligation to act judicially. The duty to act judicially or quasi-judicially may arise from the very nature of the power to be exercised. The grant or refusal of a licence or a permit or a certificate on which the right of a person to hold or enjoy property or to carry on trade or business depends must be held to require the authority to act quasi-judicially even if there are no specific provisions in the Act or the Rules to that effect. In our view the provisions with which we are concerned are of such a nature. The provisions of the act as well as the Rules are regulatory in their nature but at the same time they create restrictions on the fundamental rights of the citizens. The provisions of law with which we are concerned are Rules 3 and 5. The purpose of Rules 3 and 5 as we have already pointed out is to regulate the location where the Cinema will be run. The other provisions regulate the building to be constructed and to be used as a Cinema. Therefore this legislation is not intended to be prohibitory. Having regard to the nature of the Act and its provisions, we are of the view that there is a duty cast on the authority to act quasi-judicially and also that if the conditions required are complied with, then there is a duty on the authority to issue the No Objection Certificate. There is nothing in the provisions to make us hold that the authority can still refuse to grant the No Objection Certificate. The mere existence of the wide words "in the absolute discretion" cannot mean that the authority has the discretion to refuse even if the underlying policy of the provisions which we have indicated is satisfied

and even if the requirements of the provisions are complied with the authority can still refuse the No Objection Certificate."

9. It is seen that in the facts of this case, the matter of granting affiliation to the college of the petitioner has undergone repeated rounds of litigation. The Government has not come out with any reason for refusing affiliation which can be said to be relevant, rational or legal. And the earlier direction to reconsider the matter of affiliation has resulted into the impugned order which practically recorded no reasons and the same is, therefore, set aside. In view of the peculiar facts and circumstances, the prayer for issuing the direction to grant affiliation is fully justified and supported by the above judgments. Therefore, the State Government-the respondent No.1, is directed to make necessary order granting affiliation to the college of the petitioner pursuant to its application forwarded on 18.4.2000 by the Bhavnagar University within three weeks of receipt of writ of this order. It is stated at the Bar that the process of centralised admission to the Homoeopathy Colleges is practically over and any procedure of giving any fresh advertisement and interviews and selection thereafter could not be completed well within the academic year 2000-2001. It is, therefore, further directed that pursuant to the order granting affiliation, it shall be incumbent upon the Chairman of the Centralised Admission Committee, the respondent No.3, to include the name of the petitioner's college in the admission process for allocating students for the academic year 2001-2002, if the college continues

to be recognized for that year by the Central Council of Homoeopathy. Rule is made absolute in the aforesaid terms with no order as to costs.

Sd/-

(D.H.Waghela, J.)

(KMG Thilake)